

REMARKS

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following commentary.

I. Summary of the Amendments to the Claims

Claims 80, 85, 86, 92 and 94-99 are canceled, without prejudice or disclaimer thereof. Applicants reserve the right to prosecute the subject matter of the canceled claims in this or another application.

In addition, claims 70, 73, 74, 82, 87, and 89 have been amended to correct minor grammatical errors. Because these amendments do not introduce new matter, entry thereof by the Examiner is respectfully requested.

Following entry of this amendment, claims 70-79, 81-84, 87-91 and 93 are pending.

II. Rejection of Claims under 35 U.S.C. § 102

A. Rejection over U.S. Patent No. 6,120,667 (“Hayashizaki”)

Claims 70-72 and 74-99 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 6,120,667 (“Hayashizaki”). Office Action at page 2. Applicants respectfully traverse this ground for rejection.

In support of this ground for rejection, the Examiner stated that: “Hayashizaki teaches a device and method for simultaneous separation of biological samples such as protein or DNA by electrophoresis.” The Examiner also stated that: “[t]he device includes a first space ... with passages for capillaries having separation media,” and that “[m]ethods of using the device ... include the steps of causing a sample to migrate within the capillaries for analysis”. Office Action at page 2.

Thus, as summarized by the Examiner, Hayashizaki describes a simultaneous separation of samples, wherein each sample is separated within a compartmentalized space.

In other words, in Hayashizaki's separation process each individual sample is *self-contained* within a capillary.

In contrast, the claimed invention, as detailed in claims 70 and 87, describes simultaneous parallel separation and detection of a multiplicity of samples within a joint space, wherein the separation medium fills the joint space entirely and is permeable in any direction. Therefore, in contrast to the teachings of Hayashizaki, which requires a joint space compartmentalized by capillaries, the claimed invention requires a process wherein the joint space is **not** compartmentalized by capillaries.

Accordingly the claimed invention is not anticipated by Hayashizaki.

**B. Rejection over U.S. Patent Publication No. 2002/0168643 A1
("Wierzbowski")**

Claims 70-72, 74-85, 87, 89-91 and 94-99 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent Publication No. 2002/0168643 ("Wierzbowski"). Office Action at page 3. Applicants respectfully traverse this ground for rejection.

Wierzbowski discloses "devices and methods ... for the simultaneous electrophoretic separation and purification of multiple molecular samples in a two-dimensional array." *See* Wierzbowski at page 2, paragraph 18.

Claim 70 and 87 recite a process and a device for the process, respectively, wherein parallel separation of a multiplicity of individual samples comprises "... in the direction of a third coordinate ... the individual samples migrat[ing] through a separation medium into the joint space to realize a separation into fractions ..." *See* Claim 70(d) and 87(d). The claimed invention, therefore, requires a process involving separation by a third coordinate, which is not disclosed or suggested by Wierzbowski.

In addition, the claimed invention, as recited in claims 70 and 87, describes simultaneous parallel separation and detection of a multiplicity of samples within a joint space, wherein the separation medium fills the joint space entirely and is permeable in any

direction. The claimed invention, therefore, encompasses a process wherein the joint space is **not** compartmentalized by wells, as disclosed in Wierzbowski.

Accordingly, the claimed invention is not anticipated by Wierzbowski.

C. Rejection over U.S. Patent No. 6,410,332 (“Desrosiers”)

Claims 70-76, 78, 82-84, 87-91 and 93-99 are rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,410,332 (“Desrosiers”). Office Action at page 3. Applicants respectfully traverse this ground for rejection.

In support of this ground for rejection, the Examiner stated that Desrosiers discloses a device which “includes a reaction block (174) with an array of wells (176) and a cover (180) with spaces (192) for a sorbent trap (194),” and “[t]he reaction block also includes controlled heating elements ... for heating the wells.” Office Action at page 3.

The invention described by Desrosiers does not generate a specific temperature distribution. In contrast, the claimed invention, as described in claim 73, is capable of generating and maintaining a predetermined temperature distribution. In particular, the claimed invention is capable of maintaining a temperature profile in a direction perpendicular to the sample migration direction, which is an ability that is not disclosed or suggested by Desrosiers.

In addition, the claimed invention, as recited in claims 70 and 87, describes simultaneous parallel separation and detection of a multiplicity of samples within a joint space, wherein the separation medium fills the joint space entirely and is permeable in any direction. The claimed invention, therefore, recites a process wherein the joint space is **not** compartmentalized by reaction vessels, as required by the process of Desrosiers.

Thus, the claimed invention is not anticipated by Desrosiers.

III. Conclusion

Favorable reconsideration of the application, as amended, is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

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By

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